REMARKS

Claims 1-7 and 19-35 are all the claims pending in the application.

Art Rejections

On page 2 of the Office Action, claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Chantigny et al. (US Pub No. 2004/0138262; Pub Date: Jul. 15,2004). Further, on page 4, claims 1,5-6, 19-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chantigny et al. (US Pub No. 2004/0138262; Pub Date: Jul.15,2004) and Maria Urdaneta Rincon (A thesis Presented to the faculty of Graduate Studies of The University of Guelph; Mild Feed restriction and Compensatory Growth in the Broiler Chicken; April 2000) as evidenced by (http://www.healthatoz.com/healthatoz/Atoz/common/standard/transform.jsp?requestURI =/healthatoz/Atoz/ency/ascites.jsp.)

In response, Applicant notes initially that in Examples 91-95 referred to by the Examiner on page 3 of the Office Action, complex polycyclic compounds are made, the names and formulae of which are given in the titles of the Examples. For the preparation of these compounds, the procedure of Example 90 was followed each time, except that an ethyl ester of another organic acid was used instead of the DMG ethyl ester used in Example 90. Consequently, in the preparation methods disclosed in these Examples, no glycine compound as defined in claim 1 is used.

Also in Example 90, no glycine compound as defined in claim 1 is used. The glycine compounds defined in claim 1 of the present application embrace DMG and salts thereof, but no DMG esters. Moreover, in Example 90, the DMG ethyl ester is not used itself as a glucocorticoid receptor modulator for the treatment of certain inflammatory conditions, and is

thus not administered as such to animals, but is used to produce the much more complex glucocorticoid receptor modulator.

As described in paragraph [0576], the DMG ethyl ester is more particularly allowed to react with an intermediate N-hydroxyamidine compound to produce the glucocorticoid receptor modulator which is mentioned in the title of Example 90. As appears from the chemical formula of this glucocorticoid receptor modulator (see the left hand side of this formula), the carboxyl group of DMG is no longer esterified in this final product but is even integrated in a 5-membered ring structure. Consequently, the glucocorticoid receptor modulator produced in Example 90 clearly does not fall within the scope of claim 1 (and 19). It also does not contain any remaining DMG ethyl ester since, as described in the last lines of paragraph [0576], the glucocorticoid receptor modulator was isolated by preparative HPLC from the reaction product. Consequently, when feeding the glucocorticoid receptor modulator to the chickens as described by Chantigny et al., the chickens are not given the same compound as in the claims of the present application so that the reduction of the feed conversion rate is not an implicit or inherent property of the method disclosed by Chantigny et al.

As to the concentration of the DMG compound in the feed as claimed in claim 7, the Examiner refers to the composition of the reaction mixture in Example 90 which contains the intermediate N-hydroxyamidine and DMG ethyl ester in a concentration of about 0.075%. In the method of Chantigny et al., this reaction mixture is clearly not a feed for poultry and is not used as feed at all.

According to the Examiner, claims 1, 5-6 and 19-35 would be obvious starting again from the teachings of Chantigny et al. as the closest prior art and combining these teachings with

two further documents, namely, the thesis of Maria Urdaneta Ricon as evidenced by a webpage of www.healthatoz.com.

As explained already hereabove, Chantigny et al. do not disclose administering any of the glycine compounds defined in the present claims to poultry so that even when combining these different teachings, a skilled person would not arrive at the methods of the present invention.

Moreover, Chantigny et al. disclose that their glucocorticoid receptor modulators are useful in the treatment of certain inflammatory conditions, but not that they are useful against all inflammatory conditions. They mention a number of inflammatory disorders (see, for example, paragraphs [0192] and [0196]), but these disorders do not include ascites. In this respect, Applicant has noticed on the webpage cited by the Examiner that constrictive pericarditis (= inflammation and fibrous hardening of the sac that contains the heart) may contribute to ascites development, but is not described as one of the factors in the production of ascites. Consequently, Applicant submits that when looking for a remedy for ascites, a skilled person would not even try the anti-inflammatory agents disclosed by Chantigny et al., since the glucocorticoid receptor modulators of Chantigny et al. are only useful against certain inflammatory conditions and since ascites is not always caused by any inflammatory condition. On the contrary, as described on page 1, line 23 to page 2, line 16 of the present application, and also on pages 28-29 of the cited thesis of Maria Urdaneta Ricon, ascites in poultry is basically caused by an imbalance between the high growth requirements and the capacity of the cardiovascular and pulmonary system to meet the body needs. In poultry, where ascites frequently occurs due to the specific high growth rates, it is thus not caused by any inflammatory disorder.

Finally, Applicant notes the fact that the webpage referred to by the Examiner was updated according to the last line thereof on August 14, 2006, i.e., after the PCT-filing date (March 21, 2006) of the present application. On the website http://www.archive.org/index.php Applicant found that this web page was first archived on November 7, 2006 (see the attached copy). Consequently, Applicant submits that this webpage is not prior art (Applicant notes, though, that as indicated in the last lines of this webpage, the article may have also already been published in 2002 in the Gale Encyclopedia of Medicine). While the Examiner is asserting that the webpage is simply evidence of the alleged fact that ascites is caused by inflammatory disease, Applicant notes that he is relying on this alleged fact for motivating one of ordinary skill in the art to treat ascites using DMG, so Applicant submits that if one were not aware of that alleged fact at the time of the present invention, one would not have been motivated to treat ascites using DMG.

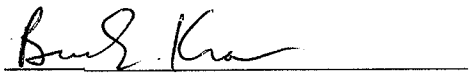
Thus, Applicant submits that the present invention is patentable over the cited references, and withdrawal of the art rejections is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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